

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

GABRIEL ACOSTA,	:	
	:	
Plaintiff,	:	Civil Action No. 12-6614(NLH)
	:	
v.	:	ORDER
	:	
WARDEN SCHULTZ, et al.,	:	
	:	
Defendants.	:	

For the reasons expressed in the Opinion filed herewith,

IT IS on this 5th day of March, 2014,

ORDERED that the Motion [3] for leave to amend is GRANTED;
and it is further

ORDERED that the Clerk of the Court shall file the
attachment to the Motion [3] as Plaintiff's Amended Complaint;
and it is further

ORDERED that Plaintiff's Application [2] to proceed in
forma pauperis is hereby DENIED WITHOUT PREJUDICE; and it is
further

ORDERED that Plaintiff's Eighth Amendment claim for failure
to diagnose and treat a hernia is DISMISSED WITHOUT PREJUDICE;
and it is further

ORDERED that Plaintiff's Eighth Amendment claim for delay
of medical treatment, asserted against SIS Officer P. Davenport,

SIS Lieutenant D. McCabe, and two female Unidentified Correctional Officers MAY PROCEED; and it is further

ORDERED that Plaintiff's Eighth Amendment medical care claims, asserted against Dr. Ruben B. Morales, for permitting SIS and correctional officers to delay treatment, and for failure to authorize recommended ophthalmological and nasal evaluation and treatment, MAY PROCEED; and it is further

ORDERED that the FTCA claim for negligent failure to protect Plaintiff from attack by another inmate is DISMISSED WITH PREJUDICE; and it is further

ORDERED that all remaining claims against all remaining Defendants are DISMISSED WITHOUT PREJUDICE; and it is further

ORDERED that within 30 days after entry of this Order, Plaintiff may file a motion for leave to file a second amended complaint, attaching to any such motion a proposed second amended complaint addressing the deficiencies of the Complaint as described in the Opinion filed herewith; and it is further

ORDERED that, in accordance with Rule 15 of the Federal Rules of Civil Procedure, including the "Relation Back" provisions of Rule 15(c), Plaintiff may file a separate motion for leave to amend, attaching to any such motion a proposed amended complaint identifying by name the currently unidentified female Correctional Officers; and it is further

ORDERED that the Clerk shall issue summonses to Defendants Dr. Ruben B. Morales, Lt. D. McCabe, and Officer P. Davenport, and that Plaintiff shall serve on each such Defendants the summons and a copy of the Amended Complaint, this Order, and the Opinion accompanying this Order, in accordance with Rule 4 of the Federal Rules of Civil Procedure; and it is further

ORDERED that, pursuant to 42 U.S.C. § 1997e(g)(2), Defendants who are served shall file and serve a responsive pleading within the time specified by Fed.R.Civ.P. 12.

At Camden, New Jersey

s/Noel L. Hillman
Noel L. Hillman
United States District Judge